

**U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
ENFORCEMENT AND REMOVAL OPERATIONS
ICE HEALTH SERVICE CORPS**

HUNGER STRIKE

IHSC Directive: 03-24

ERO Directive Number: 11758.1

Federal Enterprise Architecture Number: 306-112-002b

29 Apr 2014

Annual Review: 21 Mar 2016 No Changes

By Order of the Acting Assistant Director
Stewart D. Smith, DHSc/s/

1. **PURPOSE.** The purpose of this issuance is to set forth policies and procedures for the identification, care and management of detainees who are determined to be on a hunger strike.
2. **APPLICABILITY:** This directive applies to all IHSC personnel, including but not limited to, Public Health Service (PHS) officers and civil service employees supporting health care operations in ICE-owned or contracted detention facilities and to IHSC Headquarters (HQ) staff. This directive applies to contract personnel when supporting IHSC in detention facilities and at HQ. Federal contractors are responsible for the management and discipline of its employees supporting IHSC.
3. **AUTHORITY:** The relevant laws and regulations pertaining to the medical care of persons detained by the U.S. Immigration and Customs Enforcement (ICE) provide the authority to establish policy and management practices for this issuance.
 - 3-1. Title 8, Code of Federal Regulations, section 235.3 (8 CFR 235.3), Inadmissible Aliens and Expedited Removal;
 - 3-2. Section 232 of the Immigration and Nationality Act (8 USC 1222), Detention of aliens for physical and mental examination;
 - 3-3. Title 8, Code of Federal Regulations, section 232 (8 CFR 232), Detention of Aliens for Physical and Mental Examination;
 - 3-4. Section 322 of the Public Health Service Act (42 USC 249(a)), Medical Care and Treatment of Quarantined and Detained Persons;

3-5. Title 42, U.S. Code, Public Health Service Act, Section 252 (42 USC 252); Medical Examination of Aliens.

- 4. POLICY.** All IHSC staff must consider any detainee observed to have not eaten food (food is any substance consumed to provide nutritional support for the body) for 72 hours to be on a hunger strike when there is no medical explanation for the detainee's conduct. IHSC is responsible for the medical and mental health evaluation, monitoring, and treatment of detainees on hunger strike. A detainee's decision to engage in a hunger strike may be reasoned and deliberate, or the manifestation of a mental illness. IHSC staff manages the detainee based on the underlying cause(s).

4-1. Referral to Medical Department.

- a. IHSC health staff receives a referral for detainee evaluation and possible treatment by medical and mental health providers from Enforcement and Removal Operations (ERO) and/or detention facility staff when staff observe a detainee to have not eaten for 72 hours.
- b. IHSC staff may receive a referral for medical evaluation of a detainee from ERO and/or detention facility staff prior to a detainee not eating for 72 hours. When clinically indicated, medical staff may refer the detainee to a hospital.
- c. IHSC health staff carefully monitor and document the detainee's health and intake of foods and liquids. The Clinical Director (CD), designated physician or a treating medical staff member conducts a full clinical and mental health assessment and recommends a course of treatment, intervention or follow-up.

4-2. Reporting Requirements. IHSC reports hunger strikes in Service Processing Centers (SPC) and IHSC-staffed contract clinics as follows:

- a. When a detainee is referred to IHSC as not having eaten food for 72 hours or has declared a hunger strike, IHSC staff immediately notify the ICE/ERO Field Office Director or designee and the IHSC Medical Case Management Unit Chief. In addition, IHSC Leadership is notified using the ICE SEN Reporting process.
- b. IHSC staff also reports the event to the IHSC Medical Quality Management Unit at IHSC Headquarters by immediately completing the Incident Reporting Document (IHSC-010) as a level 2 incident within 72 hours of initiation of hunger strike monitoring via email to (b)(6);(b)(7)(C).

4-3. Housing of Hunger Striking Detainee. IHSC isolates the detainee considered to be on a hunger strike from other detainees for close supervision, observation, and monitoring, unless a medical provider determines other housing/placement is appropriate. Health care providers document the reasons for placement, including isolation, in the detainee's health record.

- a. IHSC places detainees considered to be on a hunger strike and who are medically stable in the Medical Housing Unit (MHU), if available, or a Special Management Unit (SMU) for monitoring. The detainee remains in the MHU or SMU, based on his or her medical condition, until medical personnel authorize movement of the detainee to a less restrictive environment or the patient is transferred to a hospital.
- b. Review of Housing/Isolation. Health care providers document their review of the housing placement every 72 hours in the detainee's health record.

4-4. Medical/Psychiatric Evaluation, Monitoring, and Treatment. IHSC completes an initial medical and psychiatric evaluation of the detainee, and repeats as necessary.

- a. Medical Evaluation. The CD or designee performs an initial evaluation of the detainee to include:
 - (1) medical history.
 - (2) physical examination to include height, weight, and **orthostatic** vital signs.
 - (3) urinalysis.
 - (4) other clinically necessary laboratory tests deemed appropriate (e.g. blood tests, etc.).
 - (5) weight and orthostatic vital sign measurement are recorded at least once every 24 hours during the hunger strike and other procedures as medically indicated.
 - (6) modification or augmentation of standard treatment protocols when medically indicated.
- b. Psychiatric Evaluation. A behavioral health provider (BHP) evaluates the detainee to assess for possible psychiatric causes for the hunger strike, and to provide supportive counseling that may

help end the hunger strike. If no BHP is on site or available through tele-psychiatry, then the detainee may be referred off site for the psychiatric evaluation.

- c. **Detainee Education of Medical Risks.** The CD, designee or other medical provider(s) along with a BHP counsels the detainee regarding medical risks of continuing the hunger strike and encourages termination of the hunger strike. The health care providers document this counseling in the detainee's health record.
- d. **Prior Mental Health Condition/Incapacity.** If a detainee engaging in a hunger strike was previously diagnosed with a mental health condition, or is incapable of giving informed consent due to age or illness, the health care provider documents this condition and appropriate treatment recommendations in the detainee's health record.

4-5. Informed Consent for Medical Treatment. Any medical procedure or treatment performed on a detainee who is on a hunger strike is done only with the detainee's informed consent or pursuant to a court order.

4-6. Refusal of Medical Treatment. If the detainee refuses treatment, IHSC staff requests the detainee to sign an IHSC Refusal Form ([IHSC 820](#)). The CD/physician or other medical provider explains the risks associated with the refusal of treatment. If the detainee refuses to sign the Refusal of Treatment Form, the CD/physician or other medical provider notes the detainee's refusal on the form and has it witnessed by a second person. (The second person signs that they witnessed. Not required to be medical personnel) The CD/physician or other medical provider also documents the detainee's refusal of treatment in the detainee's health record.

4-7. Medical Documentation of Detainee Monitoring and Other Interactions.

- a. **Documentation of Hunger Strike Monitoring.** IHSC staff document the daily monitoring of the detainee's intake, output, orthostatic vital signs, and weight on the Hunger Strike Monitoring Form ([IHSC 839](#)) or electronic equivalent. IHSC staff will keep this form in the detainee's health record.
 - (1) IHSC ensures that an adequate supply of drinking water, or other beverages, and three meals per day are delivered to the detainee, regardless of the detainee's response to the offered meal, unless otherwise directed by CD/physician. This delivery is documented in the medical record.

- (2) IHSC ensures that all food not authorized by CD/physician is removed from the detainee's room. Detainees are not allowed to purchase food from commissary/vending machine while on hunger strike.
 - b. Medical and Behavioral Health Encounters. Health care providers document all medical and behavioral health encounters (i.e. evaluations, interventions, education) in the detainee's health record including:
 - (1) Health care providers measure and record weight and orthostatic vital signs at least once every 24 hours during a hunger strike, and repeat and document other procedures as medically indicated.
 - (2) The physician's release of the detainee from hunger strike monitoring/treatment is documented in the detainee's health record.
 - (3) All interactions with the hunger striking detainee, the provision of food, attempted and successfully administered treatment, and communications between the physician, facility administrator, and ICE/ERO regarding the striking detainee.
- 4-8. Involuntary Treatment.** IHSC health care providers will make a reasonable effort to educate and encourage the detainee to accept voluntary treatment. IHSC contacts the local ICE Office of Chief Counsel as early as possible to discuss the hunger strike before involuntary treatment or emergency care is necessary. See section 5 of this directive: Hunger Strike Involuntary Treatment procedures for details.
- 4-9. Discontinuation of Hunger Strikes in SPCs.** Only the CD or physician may order a detainee's release from hunger strike treatment and documents the release in the detainee's health record. Upon release, health care personnel provide appropriate follow-up behavioral health and medical care to the detainee. IHSC staff report discontinuations of hunger strikes in SPCs to the IHSC Health Services Administrator (HSA), or the Associate Director for Field Operations, via email communication.
- 4-10. Hunger Strikes in Contract Facilities.** Detainees engaging in a hunger strike in contract facilities are monitored and tracked by the IHSC Field Medical Coordinators (FMCs). The contracted facility Director informs the Field Office Director of any detainees engaging in a hunger strike.
- 4-11. Staff Training.** IHSC field staff receives training from other IHSC qualified clinical staff upon assignment, and annually thereafter, regarding

the signs of a hunger strike and on the procedures for referral for medical assessment and management of a detainee on hunger strike.

5. **PROCEDURES:** IHSC field personnel must follow the hunger strike procedures outlined in the applicable National Detention Standards. If ongoing assessments reveal the detainee's condition is deteriorating despite efforts to encourage food and fluid intake, and the CD determines that the detainee's condition threatens the life or long term health of the detainee, force feeding may be considered.
 - 5-1. **Clinical Determination.** The physician who makes a determination, based on clinical assessment and lab results, that the detainee's weakening condition threatens his/her life or long-term health, may recommend involuntary treatment.
 - 5-2. **Notifications to Facility/Field Office.** The physician/CD and the HSA notify the facility administrator, and the ERO Field Office Director in writing of any proposed plan of involuntary treatment, to include forced feeding and/or medical interventions (physical examination, orthostatic vital signs monitoring, daily weight, laboratories, and other procedures deemed necessary by the clinical provider) of the detainee if the hunger strike continues. See the appropriate National Detention Standards for information regarding what ICE ERO staff who are not IHSC are required to do.
 - 5-3. **Force Feeding.** Under no circumstances, may force feeding be initiated without a court order.
6. **HISTORICAL NOTES:** This is an annual review with no changes.
7. **DEFINITIONS.** See definitions for this policy at [IHSC Glossary](#).
8. **APPLICABLE STANDARDS:**
 - 8-1. ACA Standards for Adult Correctional Institutions, 4th Edition (with 2010 supplement updates):
Part 3: Institutional Operations, Section B: Safety and Emergency Procedures, 4-4224
 - 8.2 ACA Performance-Based Standards for Adult Local Detention Facilities, 4th Edition:
4-ALDF-1C-05 (Part 1, Safety)
 - 8-3. National Detention Standards
PBNDS 2011, Section 4.2 Hunger Strikes
PBNDS 2008
NDS 2000

8-4. ICE References:

2003-03-11 Memorandum for all ICE Employees: Reporting Requirements for Significant Events (HQCOM 50/7.1.1); Reviewed Mar 11, 2007: OPI: Field Operations – Directive; Source: ICE Office of Policy

2004 Nov 9 Clarification of Significant Incident Reporting (SIR), Reporting Significant Prospective Enforcement Activity (SPEAR) and Implementation of the Intranet Web-Based Significant Event Notification (SEN) application (MEMORANDUM)

IHSC Policy Memorandum (PM) 12-001 Timeframe for Submission of Medical Incident Reports (Effective 10 Nov 2011)

Review of the Use of Segregation for ICE Detainees, Policy No. 11065.1, September 4, 2013.

9. RECORDKEEPING. IHSC maintains detainee health records as provided in the Alien Medical Records System of Records Notice, 74 Fed. Reg. 57688 (Nov 9, 2009).

9-1. Staff keeps all medical records, whether electronic or paper, secure with access limited only to those with a need to know. Staff locks paper records in a secure cabinet or room when not in use or not otherwise under the control of a person with a need to know.

9-2. Staff is trained at orientation and annually on the protection of a patient's medical information and Sensitive PII.

9-3. Only authorized individuals with a need to know are permitted to access medical records and Sensitive PII.

9-4. Staff references the Department of Homeland Security *Handbook for Safeguarding Sensitive PII* (Handbook) at:

(b)(7)(E)

when additional information is needed concerning safeguard sensitive PII.

10. NO PRIVATE RIGHT STATEMENT: This policy is an internal policy statement of IHS. It is not intended to, and does not create, any rights, privileges, or benefits, substantive or procedural, enforceable against the United States; its departments, agencies, or other entities; its officers or employees; or any other person.